

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting and Public Hearing

December 12, 2012

Chairman David Pruet called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Carol Anest
Vice-Chairman Michele Camerota
Commissioner Michael Camillo
Commissioner Cathleen Hall
Commissioner David Lenares
Chairman David Pruet
Commissioner Stanley Sobieski
Commissioner Frank Aieta-A
Commissioner Audra Ekstrom-A

Commissioners Absent

Staff Present

Craig Minor, Town Planner

II. APPROVAL OF AGENDA

There were no changes to the agenda.

Commissioner Aieta: Mr. Chairman, if I might ask a question before we go into the public hearing? The wording of the public hearing. I have a question on the public hearing, the way that it is written here. It says, amendment to special exception. What are we amending? We're amending our regulations to allow.....

Craig Minor: No, no, you're amending an existing special exception. They already have a special exception for a restaurant, you're amending it to allow live entertainment.

Commissioner Aieta: The way that it is written here I thought we were amending our regulations, specifically for one application and that, so we're amending the special exception which he already has. He's asking for an amendment to that to allow him to do, okay, thank you.

Craig Minor: You could call it modification.

Commissioner Aieta: Okay, thank you.

III. PUBLIC HEARING:

- A. Petition 37-12: Amendment to Special Exception (Section 6.6.2: Restaurant Liquor Permit) to allow live entertainment at 1076 Main Street. Piera Rosini, applicant/contact; Skender Cirikovic, owner.**

Chairman Pruet: Is the petitioner here? Sir, if you would come forward, up to the podium and just state your name and address for the record and present your petition.

Steve Rosini: I'm the owner of the Black Rose Tavern at 1076 Main Street in Newington and we are looking to provide live entertainment in our establishment, music, acoustic musicians, stand up comedy and d.j. music.

Chairman Pruet: Okay, very good. Comments from our town staff?

Craig Minor: I have no objections to this application. I went to the Plan of Development and the Zoning Regulations to see if there is any colosophy to the town center zoning. Many town's regulations will explain what the purpose of the zone is and then we could see if it was consistent. Your regulations don't say what the goal of the town center zone is, but the Plan of Development does talk about the types of uses and the types of things that you want to encourage in the downtown, and this seems to be that type of use.

Chairman Pruet: Okay, thank you. Sir, this is a public hearing, I'm going to call upon the public to make some comments. Anybody from the public wishing to speak in favor of this petition? Anybody from the public wishing to speak against this petition? Anybody want to speak for or against this, in any manner? How about Commissioner comments on this petition? Would you like to move it forward?

Commissioner Camerota: We can close it I think.

Commissioner Anest: I have a question, and I noticed it in your staff report about the hours. Is the music going to be through close, like one o'clock, or two o'clock?

Craig Minor: Well, Mr. Rosini, would you come back up to the podium?

Commissioner Anest: What are the hours of the music?

Steve Rosini: The hours of the music would have to cut off at 12:30 because Sunday through Thursday the bar location must close at 1:00 o'clock according to the liquor statute, and on Friday and Saturday we are allowed to 2:00 o'clock but we don't want it to be that late. The latest we would go is 1:00. We need time to clear out and clean up the restaurant.

Commissioner Camerota: And this is only for indoor entertainment, right?

Steve Rosini: All indoor, correct.

Chairman Pruet: Okay, we'll close this public hearing and move it to Old Business, or just close it and move it for our next meeting, or you want to move it to Old Business tonight and move it along.

Commissioner Anest: I think we could close it and move it to Old Business for tonight if nobody has an objection.

Commissioner Hall: Yes, because our next meeting isn't until January.

Chairman Pruet: Okay, I'll accept your statement as a motion and a second by Cathy.

The vote was unanimously in favor of the motion, with six voting YES.

Chairman Pruet: Sir, we are going to vote on that tonight, we're going to move it to Old Business for you.

IV. **PUBLIC PARTICIPATION** (for items not listed on the Agenda; each speaker limited to two minutes)

Robert Nadun: I'm the owner of Modern Tire at 3455 Berlin Turnpike and also the property owner. I'm speaking in regards to the auto regulations. The recent regulations that brought certain auto uses back reportedly was to become more business friendly, to attract more retail to the Berlin Turnpike. However, if the intent is to become more business friendly why aren't entertainment uses and other discouraged uses not being reintroduced? It seems the aim to be more business friendly is a specific handcrafted tailored set of regulations carved out for what is essentially spot zoning for the Firestone site. Now many of you may sit here and think that because I'm in the tire business that I don't want to see Firestone approved. Well just like Commissioner Lenares said in June 27, 2012 and I quote him here, on a personal level, in the food business yeah, I'd like to see half a dozen of them go out of business, would it be nice if we were the only auto use on the turnpike? Absolutely. Is it realistic? Absolutely not. We've been on the turnpike since 1981 and we've dealt with numerous competitors. Pep Boys, Midas, who came and went, Town Fair, Speedy who is now Monroe, Walmart Tire and Lube and many more. It's not about competition. It's about having a level playing field for all types of auto businesses and having the businesses be in conformance with the town regulations. In my business we may replace a transmission or an engine, which would leave me non-conforming under the current regulations. If I wanted to get a dealer license and sell cars on my property, I couldn't. If I wanted to add a car wash or gas pumps to my site I couldn't. As the business environment changes we as business owners need to change to remain competitive. By being non-conforming, you basically have handcuffed the businesses that have paid taxes and provided jobs for years in this town. I think that having discretion to ensure the attractiveness of facilities is important. But I'm concerned about these to some degree as well. I think that we personally take good care of our property and keep it attractive. However I'm concerned that if I wanted to make a minor expansion to my facility I can become for example subject to reworking the whole facility so that the bay doors no longer face the street. Something like that, due to the cost could basically preclude me from wanting to make such an expansion. In conclusion what I as a presently non-conforming business owner is seeking are regulations that would put us back in conformance and provide us with the latitude we need to ensure that our businesses and others like us can continue to adapt to an ever changing market place without being stifled by unfair regulations. As it is now, we cannot even rebuild our facility if it was damaged by more than fifty percent. That is according to the way the present 5.1.5 regulation is written. It is my hope that you understand the position we've been put in and that you vote to repeal the current regulations and re-write them fairly. Thank you for your time.

Chairman Pruet: Thank you. Anybody else from the public wishing to.....state your name and address please.

Doug Fernandez: Hi, Doug Fernandez, I live at 383 Goff Road in Wethersfield Connecticut. I own the property on 2550 Berlin Turnpike, known as Turnpike Motors Auto Body. Forty-four years ago I bought an out of business gas station on the Berlin Turnpike. There was so little traffic then you could play ball at noon on the highway. Since then I have expanded with six additions and two adjoining parcels of property. I have been on the highway so long that some people consider my place as a landmark. Today we are members of the Newington Chamber of Commerce, and sponsor many major events. We have hosted two fire extraction training seminars for emergency responders which have had over a hundred and twenty fire fighters and seventeen fire departments including Newington at each event, at the cost of

\$6,000 per seminar. We spent \$15,000 to restore a car for a handicapped woman, not a Newington resident so she could go back and forth to her doctor appointments. We've hosted two multi-chamber networking events at our facility that have included Newington, Glastonbury, Wethersfield, Rocky Hill, New Britain in order to attract more business to Newington. We have had over 125 people at each event. We sponsor the annual pasta dinner for the Newington Fire Department Number 3. We were voted the third best place to work in Connecticut in 2012 by the Hartford Business Journal. We employ 37 people and pay \$53,000.00 in taxes. In 2007 the zone changes our zoning which made us a non-conforming business. 2012 they modified that zoning to auto related guidelines to give them the power to select who may or may not be on the Berlin Turnpike. I talked to Craig Minor at the town planning and zoning about the changes this past summer and I was told I am no longer wanted on the Berlin Turnpike and the town has decided to discourage my continuing operation. I am not allowed to expand my business and if it burns more than fifty percent I will not be allowed to rebuild it. This limits my ability to borrow money because lenders no longer, know a non-conforming business could be out of business and could not be able to repay the loans. It should be immoral if not illegal for the town to decide who should survive and who should not survive in business. I strongly suggest that the town hold up the approval until certain corrections are made to the 2007, 2012 unfair zoning guidelines that systematically put me out of business. Thank you.

Chairman Pruet: Thank you. Anybody else from the public.

Domenic Pane, 638 Church St., Newington, Ct: Good evening Commissioners, Mr. Chairman. Rose Lyons, I want to thank you for your comments last meeting and good job on the recommended changes to the agenda. I think they will be an asset. The next thing I want to talk about Mr. Chairman, is the Certificate of Zone Compliance. Mr. Chairman, Commission members, I now have a big problem with the Town Planner. He said last meeting that it was absolutely a complaint on my property. I want to hand these out to you. What you are looking at is an application for a Certificate of Zone Compliance. It was filled out by my attorney. He filled it out and brought it to the town, we paid the fee, now how can you, Mr. Minor tell me that was a complaint. Absolutely unbelievable. It was an application for a Certificate of Zoning Compliance. When the Zoning Enforcement Officer inspected the property he called the town Attorney, I mean, he called my attorney and he told he that there were two vehicles that he wanted moved before he could issue a Certificate of Compliance. My attorney called me, I had the two vehicles moved, and then a Certificate of Compliance was issued. What I'm passing out now is the actual Certificate of Compliance. Absolutely amazing that you could deceive the Commissioners last meeting. It was not derived from a complaint.

Next thing I would like to talk about is the problem with the zoning enforcement, signs and blight. Last meeting it really figured out completely, the only way our Zoning Enforcement Officer is enforcing signs and blight is through a complaint driven process. That's from your Planner, and the Zoning Enforcement Officer has told me that too. It's only driven from a complaint driven process. Come on, let's do it a little different. Instead of waiting for complaints let's get a consistent routine inspection throughout the town. He said it was impossible to do it any other way. Come on man, really? Just have the Zoning Enforcement Officer drive around the town. If you drive around the town, you will notice things. Up behind Stamm Road there's a building that is dilapidated and falling apart. I don't know who owns the property or anything, but children could get in there, it's a real hazard. This is why our enforcement officer should be driving around the town. Now, last meeting, just change the method. This board needs to give him direction. Last meeting, the Town Planner said, just give him direction. Well, this board should give him direction. Give the Zoning Enforcement officer direction. Give him direction to drive around town on a consistent routine basis. All you have to do is say, hey, four hours a week, you can't donate, you can't put four hours a

week to drive around and try to hit the majority of the town, doesn't take that long. And, if you have to, do half the town one week, do the other half the next week. There are methods in order to get the signs and the blight enforced on a consistent routine basis so that it is fair for everybody.

As far as signs, last meeting I talked to you about the Mayor's property, and I'm sure that you got a report that said that he probably got a permit. Well, let me just tell you something, He had five signs out there, three on the fence and two A-frame signs. Read your regulations. You can't have five signs out there. Stew Leonard's property, they had twelve temporary signs up, twelve! Some of you have your regulations here in front of you, signs, I'm not going to read everything to you, I'm sure you have read it, if not let me just tell you something here, temporary signs may be pennants, streamers or banners attached to the building promoting the sale event and ground signs not to exceed two, not any higher than ten feet and larger than fifty square feet per side. Not more than one ground mounted pole, air inflatable sign, not to exceed eighteen feet in height is permitted. No group mounted signs. It's absolutely amazing that the Zoning Enforcement Officer can give out a permit for the Mayor's property and Stew Leonard's and he's not even following your own regulations. This comes down to a quality of life, and Commissioner Hall knows about this. We put this in our 2020 Plan.

Newington's residential neighborhoods I quote from the 2020 Plan should be protected from blight such as junk cars, illegal commercial uses, and other negative nuisances which detract from the quality of residential living. I really think that this Commission has to figure out we are either going to have consistent sign enforcement and either the Zoning Enforcement Officer is going to do the job, or you're going to have to find somebody else to do the job, or it's going to be a free for all out there.

The last thing I would like to talk to you about tonight is the auto related uses. I hope you did, or will do, the right thing. Reopen up the regulations to be fixed correctly. Don't force us to take this thing all the way through the court system. We don't want to do that, but we will if we have to. We want to work with the town, we want to correct the problem. There is a simple way to correct it. Thank you very much for your time, and I'm sorry if I went over the two minutes.

Chairman Pruet: Thank you. Anyone else from the public wishing to address the Commission?

Rose Lyons, 46 Elton Drive: You're welcome Mr. Pane for whatever I did. I guess I mentioned something about Commissioner's remarks after public participation. I'm hoping that's what it is. Given the fact that the subject of signs has been brought up, I was at an Economic Development Commission meeting the other night and one of the Commissioners brought up the fact that a new business in town had put up a temporary sign and there were some problems with that. I'm hoping that these Commissioners who talk at these individual meetings also talk to the Town Planner, the Zoning Enforcement Officer or anybody on TPZ. There seems to be a lot of talk going around the table that doesn't get shared with the other people. The lack of conformity and who gets penalized and who doesn't is quite apparent and I don't know if it's one of the cases where the Zoning Enforcement Officer can do just so much and some people will comply with what he has to say, and other people just ignore it. I know that it's being ignored on Market Square, I know it's being ignored on Dowd Street and maybe it just is what it is, but it seems like, there seem to be some problems around town and maybe if someone talked to Commissioner Shields who talked to this Commission the other night, talked to the Zoning Enforcement Officer maybe we can make things better for everybody. Newington is trying to be business friendly, but it seems like there are some problems in town. Thank you.

Chairman Pruet: Thank you. Anybody else from the public wishing to speak at this time?

V. REMARKS BY COMMISSIONERS

Commissioner Anest: I just wanted to say I talked to the Executive Director of the Chamber and I did say to her, they have a new business packet so when new businesses come into town, they hand them a packet. I said, please make sure that our sign regulations are included in the packet. I know that Craig went to speak to the Chamber however, that doesn't help the new businesses coming into town. So please, please make sure that she gets the regs and have them in her office so she can hand them out to existing property owners. I mean, I've asked and asked and asked, and it hasn't been done and I really want it done.

Craig Minor: Well, I did give them the whole regs, but the whole regs is about fifty something pages, so you are requesting that I give them some kind of a condensed handout, it's a good idea.

Commissioner Anest: So a new business comes in, she gives them the packet, they know they can come apply for the 28 days, what we allow, what we don't allow, so at least as new businesses come in they have the information in front of them. I know that the burden is on them to know what the regs are, but sometimes they are ignorant and you need to let them know what is going on in town.

Commissioner Aieta: Mr. Chairman, if you could have the Town Planner explain the fifty percent rule on the damage to non-conforming buildings as it pertains to changes that we made in 2011 that apparently didn't get included in our latest revisions, maybe he can shed some light for the people who are here for the auto related uses.

Craig Minor: Thank you Commissioner Aieta. Yes, I was confused by the letter that we got from the attorney so I pulled the file from that amendment from 2011, I pulled the folder and it was certainly clear, the Commission definitely deleted the phrase, the fifty percent or less phrase but apparently who ever the secretary was who typed up the amendment to the regulations forgot to delete that clause. She added the new sentence, which you can break it out if you want to, but it is a fact, she did forget, I don't think it was Ed because he didn't do any typing but she forgot to delete that clause and so the regulations that we have been printing and on line ever since still have that clause that forbids you from rebuilding if more than half of the value of the building was lost, but you folks agreed a year ago was not business friendly, and you voted to strike that from the regs, it's just that the secretary forgot to do that, so we'll definitely, as soon as I get back to the office I'll have my secretary edit that out of the regulations and then make the corrected regulations available.

Commissioner Aieta: If I could continue, for the people who are here on auto related uses, the, what he is saying is that if your building burnt to the ground, one hundred percent, and what was left was just the foundation you could, under the regulations that are approved but never got filed correctly, you could rebuild one hundred percent on the same footprint.

Doug Fernandez: Would it have to be a conforming building now?

Commissioner Aieta: It would have to conform to the building standards of the Town of Newington, but what are you saying?

Craig Minor: No, The same footprint.

Doug Fernandez: So you would have to have garage doors not on the highway, not on the road, right?

Commissioner Aieta: I don't know the answer to that question, I just know that the change from fifty percent, it's down to one hundred percent. I can't answer your question there, I would have to ask the Planner.

Craig Minor: I don't want to talk about that, that's what we are in litigation over, so I don't want to be speaking about that.

Chairman Pruet: Any other Commissioners? If I could just address Mr. Pane's concern about the zoning enforcement. I've had lengthy meetings in the past couple weeks, we've been addressing that to formulate a more exact time, place, matter of fact he will be working, the Zoning Enforcement Officer will be coming in on a definite weekend, I think about every six weeks to check in on the weekends, more emphasis on the Berlin Turnpike, more emphasis going out on the street, more emphasis on observing, so that has been addressed since you mentioned that last time. Now it's incorporated into a action plan for him to follow. Anybody else?

VI. MINUTES:

A. November 28, 2012

Commissioner Sobieski moved to accept the minutes of the November 28, 2012 meeting. The motion was seconded by Commissioner Camerota. The vote was unanimously in favor of the motion with six voting YES.

VII. NEW BUSINESS

None

VIII. OLD BUSINESS

A. **Petition #28-12: Site Plan Modification at 58 Commerce Court (Big Sky Fitness) Big Sky Fitness, applicant, WC Newington LLC owner, Joe Millet, 58 Commerce Court, Newington CT contact.**

Chairman Pruet: If the Planner could just paraphrase on that?

Craig Minor: This is a straight forward application for a site plan amendment that was before you a couple of months ago but then we found out that, well, we knew that it was within a 100 feet of the wetlands, but my understanding when we talked to the wetland staff was that it had, since it had previously been approved, but then I was instructed by the Wetlands Commission that it did need wetland approval. So, the applicant submitted an application to the Conservation Commission, went through that process, did get approved at the Conservation Commission so now he's back to you for, now the site plan is back before you for approval. They did make some changes from the plans that you saw a couple of months ago, nothing significant. These were changes that were more requested by the Conservation Commission to deal with the wetlands nearby and the conservation area nearby. If you recall, what this is a request to do is, there is an existing section of the building that is up on stilts that has been there for a number of years and the applicant would now like to enclose to create more floor area. Actually, it's pretty simple, so that is what the request is before the Commission, to enclose a mezzanine area I guess you would say. You have the site plan, there is the architectural rendering of it, if you have any questions?

Chairman Pruet: Does this meet your engineering satisfaction?

Craig Minor: Yes.

Chairman Pruet: Any questions before we read a draft suggested motion on this? What he stated, that it meets the engineering guidelines, parking guidelines.

Commissioner Anest moved that Petition #28-12: Site Plan Modification (Addition) at 58 Commerce Court (Big Sky Fitness, applicant; WC Newington LLC, owner, Joe Millet, 58 Commerce Court, Newington CT contact be approved.

FINDINGS:

The Fire Marshall has reviewed the plan and has no objections to the amount of parking shown;

The plans have been revised to address the Town Engineer's comments of October 26, 2012.

CONDITIONS:

None.

The motion was seconded by Commissioner Sobieski.

Craig Minor: Mr. Chairman, I forgot to mention one thing. The other issue that came up at the previous meeting was the amount of parking. Technically, well, your zoning regulations require a certain amount of parking for different types of uses, but the regulations also say that recreation uses, the Commission has the ability to modify the amount of parking required and depending on one method of tabulating parking in the regulations, the site does not have enough parking. Since the site plan was approved a number of years ago and this additional change really doesn't generate the need for any additional parking, I would suggest that the Commission make the same finding made several years ago, is that the amount of parking provided is sufficient. That doesn't require two thirds vote like something else that you are going to be talking about later tonight. That's implicit in your motion if you do in fact approve that you are allowing them to provide less than the required amount of parking.

Chairman Pruet: Thank you. Further discussion?

The vote was unanimously in favor of the motion with six voting YES.

B. Petition 30-12: Special Exception (Section 6.13; Accessory Apartment) at 131 Stonehedge Drive. Paul Bongiovanni 40 Grant Street, Hartford, CT owner/applicant/contact.

Chairman Pruet: Okay, Mr. Minor could you paraphrase your concerns?

Craig Minor: Yes, this application, the concern that I brought up at the last meeting was that the applicant shows the addition, new floor area more than the 300 square feet that the regulations put a limit on, and the regulations don't give you the ability to waive that, unlike some of the other regulations where you can, by two thirds vote, there is nothing in the regs that give you the ability to waive that. So if the Commission otherwise has no objection to the application and we'll talk about it some more, I would suggest that you approve it with the condition, the stipulation that the applicant revise the floor plan to cut back the new floor area to be no more than 300 square feet of new floor area.

I would also suggest that the permit specifically expire upon the sale of the property or transfer. There have been some concerns in other areas where an accessory apartment permit was issued and that over the years the house changes hands, new owners don't know or forgot that it was supposed to be an accessory apartment, it becomes a rental and other enforcement issues. So I would suggest that if you do approve it, one of the conditions of approval be that it limited to just the current owner.

Chairman Pruet: Okay, and you have a draft suggested motion on that?

Craig Minor: Yes.

Chairman Pruet: Any questions for Mr. Minor on that?

Commissioner Hall: I think there was one more where he had to sign an affidavit that it was going to be owner occupied currently, so they weren't going to be, didn't I find that in here somewhere?

Craig Minor: Yes, the second condition is that the applicant shall submit an affidavit stating that he will reside at 131 Stonehedge Drive throughout the duration of this approval because the regulations require that he sign an affidavit.

Commissioner Anest: There was another under your staff comments, about written approval from the building official of the interior doorway connection. Has that been.....

Craig Minor: Well, we could make that a condition of approval if the Commission wants but I think that since, as a practical matter he won't get a c.o. for his parents without the building inspector signing off on the interior doorway, not sure it is something that he specifically needs to have the building inspector issue a letter saying that the interior doorway is accessible, that's implicit in issuing a certificate of occupancy but if the Commission wants, I can tell the applicant to get a letter from the building inspector certifying that the interior doorway is to code.

I was trying to figure out why we have that regulation and I think maybe where it started was the understandable desire of the Commission to make sure that there is access between the house and the apartment. That it couldn't be the kind of a solid lock door that a tenant would want, but that your mother wouldn't necessarily care about. I think that was probably the origin for that regulation, but it some how got changed to being a door that the building inspector has to sign off on, he'll sign off on it, it's to code. He's probably figuratively scratching his head asking why does TPZ want me to certify that this door is to code. Of course it's to code, that's not what we want peace of mind about. We want peace of mind that it's a door that will not be lockable from one side or the other.

Commissioner Camerota: I think also that some might have been on the plans, but not actually done. I thought that was the concern.

Craig Minor: That an interior door be shown on the plans is what you are saying. Okay, that makes sense.

Commissioner Camerota: And that it be there.

Craig Minor: Then, let's add a fifth condition that, well if you don't have the draft motion....

Chairman Pruet: I want you to add what we were just saying and I'll have Dave read the draft motion to that.

Craig Minor: Okay.

Chairman Pruet: Okay?

Craig Minor: No, I'm confused.

Chairman Pruet: What you have written down, the fifth one, after we amend it, look for the other one, write that down, and I'll have Mr. Lenares read it as a draft suggested motion and then we will bring it to a vote and discuss it.

Commissioner Aieta: I missed something. Would you just explain to me why we can't allow him to go beyond the 400 feet again. I didn't understand that.

Craig Minor: Could we stop a minute. Do you have the draft motion? Then I didn't pass it out.

Now I prepared two draft motions, one to deny because he exceeded the 300 foot rule and one to approve with the condition that he come down to 300 feet.

Commissioner Aieta: Just one more time why we can't amend it to, from 300 to 400. You said there was no provision for us to do that in the regulations, is that why?

Craig Minor: Right. The regulation says that an accessory apartment shall contain at least 500 square feet, additions may be made to the side or rear of the single family dwelling, but the new floor area for the accessory apartment shall not exceed 300 square feet, and then it goes on to talk about the percentage of the apartment and it doesn't go on to say that this section may be waived or may be modified so that means it's.....

Commissioner Aieta: What section is that?

Craig Minor: Section 6.13.4 on page 88.

Chairman Pruet: Then basically we're saying that we want to comply with our regulations, and that specifies it in the motion.

Commissioner Aieta: So we're saying that the apartment shall contain at least 500 square feet, then you could only add an addition to it, we're saying that part of the apartment has to be in the existing house, two hundred square feet?

Craig Minor: Right, and if you look at the floor plan that he submitted it does show that he is using some of the existing house.

Commissioner Aieta: But then he went beyond the 300, he went to 400.

Craig Minor: Exactly.

Chairman Pruet: Okay, we had another condition that we wanted to write?

Craig Minor: Yes.
Well, it's already a requirement. It's already a regulation.

Commissioner Lenares: What was the possible fifth addition by the way, one more time?

Craig Minor: That we somehow that we make it clear that the interior door has to be a non-locking door, but I think that's...well, I'm not sure the regulation specifically says that, I think it's the intent. The apartment shall have at least one means of it's own outside access, and at least one internal doorway connection to the principle dwelling unit, and it says the floor plan layout showing the proposed means of access shall be submitted to the building official for review and approval. A floor plan layout showing proposed means of access shall be submitted to the building official for review and approval...

Commissioner Hall: I don't remember a locking aspect of it. I think it was simply that we wanted to make sure it wasn't a stand alone. That it had to have a connection to the main house so that it wasn't a totally separate apartment. So they could have an egress from the apartment itself, but it also had to have a connection to the main house.

Craig Minor: A connection, but you don't care if it's a lockable connection?

Commissioner Hall: No.

Craig Minor: Oh, okay.

Commissioner Hall: I don't think that was ever considered, was it?

Commissioner Anest: I don't remember discussing that.

Craig Minor: Well, that's actually the best way to make sure that these units don't become full fledged apartments by making it so that no one would want to live there because they wouldn't be able to have complete privacy, whereas a family member wouldn't mind.

Chairman Pruet: So we don't need it because it complies with our regulations.

Craig Minor: And we don't need the building official to certify, I still don't see why we need the building official to look at the floor plan, because you can look at the floor plan and see if there was an interior doorway.....

Commissioner Hall: No, to make sure it was built that way. We get lots of plans that are not as built.

Craig Minor: Oh, to make sure that, okay, that's not the way to do it. The way to do it is to have the Zoning Enforcement Officer go out there six months later and make sure that there's an interior connection.

Commissioner Anest: Well it says the floor plan must show both the principal residence and the accessory apartment, the location of the internal doorway connections.

Craig Minor: Right, but then it goes on to say that the building official has to submit a letter certifying to that, but why do we need the building official.

Commissioner Aieta: It doesn't say that he has to submit a letter, it doesn't say that. It says a floor plan layout showing the approved means of access shall be submitted to the building official for review and approval.

Craig Minor: Approval.

Commissioner Aieta: Yeah, okay, so he approved it. It doesn't say anything about writing a letter or certify or

Craig Minor: Oh, you mean you're okay with him approving it in the fullness of time, somewhere down the road. Afterward. We don't need a fifth condition then.

Commissioner Lenares moved that Petition #30-12: Special Exception (Section 6.13: Accessory Apartment) at 131 Stonehedge Drive, Paul Bongiovanni, owner/applicant/contact be approved with conditions:

FINDINGS:

The accessory apartment will not compromise the single family character of the neighborhood;

The application complies with all the requirements of Section 6.13 except for Paragraph 6.13.4.

CONDITIONS:

1. The floor plan shall be revised to show no more than 300 square feet of new floor area in the accessory apartment.
2. The applicant shall submit an affidavit stating that he will reside at 131 Stonehedge Drive throughout the duration of this approval.
3. The applicant shall submit a Zoning Location Survey of the proposed addition.
4. This permit shall expire upon the sale or transfer of the property.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YES.

C. Petition 31-12: Special Exception (Section 6.6.2: Sale of Alcoholic Beverages) at 137 Kelsey Street, Adorna Carroll, owner, Tasneem Fatima, applicant; Sheikh Ali, 137 Kelsey Street, Newington, CT contact person.

Chairman Pruet: If you can just paraphrase your comments Mr. Minor?

Craig Minor: Well, the only issue is the distance requirement. Then there is a similar but not identical liquor permit in the Liquor Locker next door and your zoning regulations prohibit similar liquor licenses from being within five hundred feet, it's not allowed, but the applicant, but the regulations do go on to say however, that by a two thirds vote of the Commission that distance regulation, that five hundred foot separation can be waived or modified at your discretion provided that you find that waiving that distance rule will not cause, A. undue concentration of liquor outlets in the area, B. will be in harmony with the general purpose of the zoning plan for the area C. will not result in such proximity of the proposed outlet to schools, churches, public playgrounds, or residential zones so as to adversely affect the health, safety, and morals of people in the area, and D. will not create traffic hazards. So the first question before the Commission is, did the applicant persuade you at the hearing that this application warrants a waiver of that separation requirement. So at some point in your discussion, it might be appropriate for someone to make such a motion to grant the waiver, if

the motion passes, then you can go on to then vote to approve or deny the application, but if the motion fails, then at that point the application must be denied.

Chairman Pruet: Okay, we're in the discussion phase of this.

Commissioner Aieta: There's a reason why the regulations have a 500 foot requirement, so that you don't have an over concentration of liquor outlets in a particular area. This is not even a waiver of a distance from 500 to 200 hundred feet or, this is in the same building. These, the walls touch each other. I mean, there is no distance between them, it's in the same building. Also, our regulations state about residence zone. This particular property abuts a residence zone. I would, I think you set a precedent when you start reducing the distance requirements down to zero. You could see other areas coming in to, and it sets a bad precedence. Overdue concentration, and I don't see where he has demonstrated that the need is over, you know, that there is a need because there is not enough liquor outlets in the area.

Commissioner Hall: Would this also apply to a liquor store that has a small restaurant next to it which currently doesn't sell liquor. I'm always concerned when we pass anything and make an exception for something about future and other petitioners coming in because we've done it once, well, you did it for them, I want you to do it for me. So explain to me how this would be different then a small restaurant that currently is not serving liquor of any kind, wine, beer, anything, located right next to a liquor store. If we did this, wouldn't they also at some point be able to come back, or is it two different animals.

Craig Minor: It's two different animals.

Commissioner Hall: Because one's a retail and one is restaurant?

Craig Minor: Exactly, exactly. In your regulations you have four what we call classes of liquor permit. The first one is restaurant and the like, the next one is club and the like, store and the like, and finally bar and the like. So if the bowling alley wanted to get a bowling alley liquor permit, which exists, I'm not sure which of those four categories they would go in, but this tells me that a restaurant with a liquor license can go right next to a night club with a liquor license, can go right next to a package store that sells full liquor, can go right next to a grocery store that sells only beer. They could all be right next to each other. There's just no two of the same kind that can be within 500 feet of each other, which seems kind of strange, but that's what your rules are. It's alright for a package store that sells liquor to be right next to.....

Commissioner Aieta: But there's two different things. One is consumption on the premises, and one is for consumption off the premises, or take out. They don't actually serve the items in the place. This is where both of these requests, both of these businesses are for consumption other than the place of business.

Commissioner Lenares: My concern is, what about Fenn Road? Stop and Shop Plaza on Fenn Road. You can buy beer at the Stop and Shop Plaza and right next door to it is a package store, both non-consumed on the property. Can you explain that one?

Craig Minor: Probably you had a different town planner then who was not reading the regulations the way that I am reading it.

Commissioner Lenares: But what you just said, I understand if there is a restaurant that's open and then a package store opens up, that's not even an argument, that's just (inaudible)

to not allow that, but if you have Stop and Shop, which is an actual store, next to a package store where you can go in and buy a 30 pack of Bud Light at both of them and go home, what is the difference in this situation. It's not the residential zone, because if it is the residential zone then they should close the one that's there now and you're not doing that, so why couldn't you allow this one there?

Craig Minor: Well, I can't tell you why Ed Meehan didn't, I don't know why Ed allowed the one that you just explained because to me clearly we can't allow a Stop and Shop to sell beer if, these regs don't allow Stop and Shop to sell beer and have a package store within 500 feet. I don't know.....unless you granted them a waiver.

Commissioner Lenares: But we talked about them having, we talked informally about them being two different types of permits issued because of the fact that one sells full liquor and one just sells beer. Is that any difference?

Craig Minor: But your regulations only have four classes. You only have four classes.

Chairman Pruet: And you would need a waiver on that, right?

Craig Minor: Yes, two thirds, yes two thirds.

Commissioner Aieta: Unfortunately we didn't catch it on there but that doesn't mean that because we make a mistake in allowing it to happen there, now it becomes part of our regulations that everybody can do it. Unfortunately, I don't remember that application, I wasn't on the Commission.....

Commissioner Lenares: That was way before us.

Commissioner Aieta: But that should have been some kind of action by this Commission. There wasn't, it fell through the cracks, but that doesn't make it because it fell through the cracks that it is right for this application or any other one.

Commissioner Anest: How long do we have to act of this?

Craig Minor: Well, you closed the hearing at your last meeting on November 28th, and you are supposed to make a decision within 35 days, but the applicant is here if you want to ask him for an extension....I'm sorry, you have 65 days from the November meeting.

Chairman Pruet: So it comes down to, if you feel that our regulations are interpretative or precise in nature, that it violates the 500 foot rule, then it is denied, or if you want to go forward with it and extend a waiver by a two-thirds vote we could do that, or the other option is that we can table this for further discussion for our next meeting, and vote on it at that time. What is the consensus of the Commission? How would you like to go forward? I need some input.

Commissioner Lenares: I'll start, seeing the findings on the thing, I'm not concerned about the concentration in one area. I don't find that is a finding that should be held and then the other three are, I mean, no traffic violations, the proximities are fine, and in my opinion, in harmony with the general purpose of the zoning plan to the area, to me, it's all yes, I don't have a problem with it. But, the regulations specifically say, not, you've got a problem here, a little gray area.

Chairman Pruet: Just an interpretation, even though our regulations say that, we can still waive that with a two thirds vote or would we be in violation of our regulations?

Craig Minor: This is the waiver, this is the paragraph that talks about how you can grant a waiver. If you feel that these four things exist, then you may grant the waiver. You still don't have to approve the application. There may be other reasons why you don't want to approve or deny the application, but you can grant the waiver from the separation requirement which is just one of the many requirements by a two-thirds vote.

Chairman Pruet: We heard from Dave, anybody else?

Commissioner Aieta: One thing I would just like to comment to Dave, will not cause undue concentration of liquor outlets in area. You don't think having two, side by side is a over concentration of liquor outlets?

Commissioner Lenares: No, no I don't. Well, if it was me opening up the business, I wouldn't do it, I agree with what you are saying, but I don't feel that I should be telling this guy, hey it's.....

Commissioner Aieta: That's not what I'm asking, you don't feel that it's an undue concentration having them both side by side?

Commissioner Lenares: No.

Commissioner Aieta: It's not over.....

Commissioner Lenares: Like I said, personally I wouldn't do it, I wouldn't want it there if I was the other guy.....

Commissioner Aieta: That's not the question that I'm asking.....

Commissioner Lenares: I answered it, no. I don't think it would be, I don't think it would be a great decision to do it, I wouldn't like it if I was the other guy, but we haven't heard from him, he hasn't been here, but who am I to say that this guy can't try to sell beer here. It's not my, maybe he won't sell any, maybe the other guy has better prices, maybe he will have better prices and he will sell more beer than the other guy, I don't know. I just don't think he should be stopped from doing it, if it is done on Fenn Road as well.

Commissioner Aieta: Why do you think they have the 500 foot separation in there?

Commissioner Lenares: I don't know, what happened on Fenn Road?

Commissioner Aieta: I don't know, that was a mistake.

Commissioner Anest: I want to know what happened.

Chairman Pruet: I recommend that we table this, do some research and find out exactly what happened, that maybe it was a interpretative issue, but rather than make a hasty decision or inaccurate decision, let's be safe and let's keep it open and do some research on it.

Commissioner Lenares: I think the only thing that should matter would be the regulations. All these things mean nothing, the concentration doesn't mean a thing.

Commissioner Aieta: Of course it does.

Commissioner Lenares: It doesn't to me because to me the concentration is not an issue, all the things listed here are not issues, but if the regulations say and we're going to stick to those, then it's clear, bare bones, it's a no. Very simple, but none of these should matter because they don't factor in.

Commissioner Aieta: Of course it does.

Craig Minor: I think what you mean that in your opinion, these conditions are satisfied. Not that they don't matter, but they are satisfied.

Commissioner Lenares: They're satisfied. Pertaining to this particular application, they are satisfied.

Commissioner Anest: I don't understand why the one that is there has been within five hundred feet of a residential zone.

Craig Minor: Well, condition C, will not result in such proximity to impose on schools, churches, playgrounds, or residential zones so as to adversely affect the health, safety and morals. So what you have to ask yourself then is will allowing this waiver, being as close as it is to a residential zone, will that adversely affect the health, safety and morals of the area. That is the question that this regulation is making you ask yourself.

Chairman Pruet: Any other thoughts on this?

Commissioner Anest: So, for the other package store to be there, this is we would have had to have a two thirds vote to waive.

Craig Minor: No. This will, it's only for.....

Commissioner Anest: Oh, oh, okay, I see.

Commissioner Camerota: It's 500 feet for church and schools. That's in concrete.

Chairman Pruet: Because there is some confusion on this, I think it's appropriate to table this to our next meeting.

Commissioner Anest: And can you kind of go back and do some, what happened at Fenn Road?

Craig Minor: Yeah, I'll go back and find out, I'll read the minutes and see if this was an issue or just overlooked.

Commissioner Lenares: What are we going to get in the next meeting that will help us make a decision on this one? What are we looking for?

Craig Minor: Well, what I'll do is, I'll go back through the minutes of the meeting where the Fenn Road package store was approved and I'll summarize what is in there and present that to you in a report and I'll take it from there, see what I find.

Commissioner Lenares: And I agree with what Frank said, just because there is something that happened in the past.....

Commissioner Aieta: You are going to find that nobody picked it up, it just happened, it's not the same situation, because that is a major strip mall. So it's a major development, this is a, one parcel.

Craig Minor: It's also possible that Stop and Shop was somewhere before because there is a rule that says that if you are already existing, you can relocate to less than five hundred feet from a live use. That's the next sentence down. Maybe they made an argument that the Stop and Shop was actually somewhere else first, maybe the permittee was somewhere, I mean, there may have been, I'll look and find out, or maybe the package store was somewhere else and relocated.

Commissioner Hall: And if we gave the approval for this beer permit, do they then have to go to the State?

Craig Minor: Yes.

Commissioner Hall: So it's possible that the State might not grant it, and this is a separate type of license than the package store license?

Craig Minor: Right.

Commissioner Hall: And is this one that is not regulated by number? I know package stores, there's a certain number that you can have.

Craig Minor: Right, there is no limit to this type of permit.

Chairman Pruet: Right, package stores go by population.

Craig Minor: But this isn't one of those.

Chairman Pruet: No, it's a grocery, grocery, beer permit. So, is that what you would like to do, would you like to postpone this or do you feel that you have enough information to vote on this tonight?

Commissioner Hall: I think there is enough curiosity on the position of Fenn Road to check it out.

Chairman Pruet: So the consensus is that this is tabled.

Petition 37-12
1076 Main Street
Restaurant Liquor Permit

Commissioner Camillo moved that Petition 37-12: Amendment to Special Exception (Section 6.6.2 Restaurant Liquor Permit) to allow live entertainment at 1076 Main Street; Pierra Rosini applicant/contact; Skender Cirikovic, owner be approved.

FINDINGS:

The restaurant is located in the "Town Center Business" zone, an area of Newington Center that is conducive to live entertainment.

The motion was seconded by Commissioner Anest.

Commissioner Anest: I have a question. Should we amend it to read amendment to existing special exception?

Craig Minor: Sure

Commissioner Anest: Or modification to special exception.

Craig Minor: I think probably modification is better, modification of existing special exception.

Chairman Pruet: Any further discussion?

The vote was unanimously in favor of the motion, with six voting YES.

IX. **PETITIONS FOR PUBLIC HEARING SCHEDULING** (January 9 and January 23, 2013)

- A. Petition 38-12: Special Exception (Section 6.11: Motor Vehicle Service Use) at 2903 Berlin Turnpike (Firestone Complete Auto Care) Bismarck Real Estate Partners Inc., applicant; Wex-Tuck Realty LLC, owner; Jason Mikrut P.E, 54 Tuttle Place, Middletown, CT, contact person.

Craig Minor: We received a petition for a special exception to operate a motor vehicle service use at 2903 Berlin Turnpike, Firestone Complete Auto Care. Given some of the uncertainties regarding your regulation, and the fact that they don't have their wetlands permit yet, I would suggest that the Commission consider not scheduling this hearing yet and we can talk about it again on January 9th at that point, pick a public hearing date.

Chairman Pruet: That makes sense.

Craig Minor: So no action is necessary.

X. **TOWN PLANNER REPORT**

Craig Minor: You have my report, it was in your packet. The first item that I went through the zoning issues that were brought up at the previous meeting and found that some of them had merit, some of them did not, so I addressed all of them.

I did talk to the zoning enforcement, the secretary to the zoning enforcement officer today about revising the form again to make it more clear what the nature of the item is that is being reported. This, it's not at all clear. There are four different things that Art is reporting in his monthly report, but because not every month he has all four items, or he has an example, it's not clear. But there are four different things that he reports on. One is a violation that is complaint driven that either comes from the public or the Commission; there's a potential violation that he has discovered himself in his driving around town that he then follows up on; there are inspections that he will do at my request to verify that the site is finished and the bond can be released, or other reasons that I or another staff person asks him to inspect something, and then the fourth thing that he does is issue Certificates of Zoning Compliance such as when someone is looking for bank financing and the bank wants a letter from the town saying that this is a compliant activity, Art will go out, inspect the property, and then if it's in compliance, issue a letter for this person's benefit, so there are four different things that he does. So we either come up with a better way to identify which type of activity it is that

he's reporting on. If you notice, it's in alphabetical order by street, that's the way he does it. Now, it's in ACCES, we could generate a report that presents the data differently, we could present it by category, by each of those four categories if you would like, or keep it the way that it is, in alphabetical order by street and numerical within streets. It's your preference the way that you want the information to be conveyed. But I understand that they revised it a year or so at your request because the previous version was hard to understand. I guess there were codes in it that were not intuitive, so they revised this system. They actually type this by hand every month, because this format does not take advantage of the functionality of ACCESS. It can't. This can't be done, so and I've been avoiding this, but I'm going to have to sit down with the secretary and the ZEO in the next couple of days and come up with a format that is not labor intensive for the staff in a time wasteful way, and yet still conveys the information to you folks clearly so that you aren't scratching your heads, asking yourself, what is Art trying to report here. It shouldn't be a problem.

Commissioner Aieta: You must have IT people in the town hall, talk to them.

Craig Minor: We do, and actually the IT people helped Cindy and Art come up with this. Cindy and Art had to go to the IT department to come up with what you are using. I know, why is it that complicated, but for some reason it has become incredibly complicated.

Chairman Pruet: We can revisit it again, see if they can streamline it. But definitely if they can have the four categories where a check-off would be informative to us and make more sense.

Craig Minor: Then you can see at a glance, gee, the lion's share of this are complaint driven, or oh, you only got two or three this month that were, came from the Commission or self driven.

Commissioner Hall: Why can't they just start with four categories, the first category being public complaint, and then alphabetize the addresses or whatever and then the next category would be, Zoning Official you know, whatever, so you have those four categories, and you simply input the data in those four categories. Why couldn't you do it that way?

Craig Minor: Right, they certainly, but apparently they would still have to re-type it. It doesn't make sense.

Commissioner Camerota: If you put in the data, you should be able to get any report you want. They could go in and say, give me a report that has all complaints by someone from the town, however you are going to word it.

Craig Minor: Right, and suppress some of the categories because the Commission doesn't care about the phone number of the individual. I know, I don't know why it's so hard, but I'm going to have to make some time to sit down with them and come up with a better way to convey this information because you certainly deserve to have an easy to read report from your ZEO, and for some reason, it's not working. I will work on those things.

Next item, performance bonds held by the town. This has also, oh, I'm sorry, CVS. I hadn't talked to Art since I wrote this, but he did pull the architectural for the building, and it does show colored panels but it wasn't clear whether the façade was a condition of approval or just information that they submitted to give you a sense of what the building would look like. It's in the town center zone, and some uses in the town center zone do have design, architectural review but some don't and it's not clear which ones do and which ones don't and that's part of why it's take Art a little bit longer to find out exactly what crime has been committed, if any. It just might be a mid-understanding of what is required.

Commissioner Anest: He said it's from the inside, the red is from the inside? They are on the outside, because I went up to it yesterday. It's from the outside. They took down the white panels and they put this red bubble....it's not even Christmas, it's there permanently.

Chairman Pruet: So they did modify what we approved for that zone.

Craig Minor: It's on his list, but it turns out not to be as simple as maybe people might have thought it was when it was pointed out, but it's not going away. Okay, performance bonds, this also turned out to be a bigger nut than I thought at first. I broke out the information that I had into two categories, active and closed, and actually since I did this one a week or so ago, as I've gone back through the records, I have found some more that have been released. That the Commission voted to release, or that the Town Planner sent a memo to the Finance Department to release, either return the cash or mail back the insurance bond as the case may be, so this is a work in progress. I did find something very disturbing. There was a cash, a savings account, that was in the form of a passbook at the Bank of America in Bloomfield that when the developer took out, it was a CD actually, when the developer took out the CD, in his name but he filled out this form that we use here in Newington pledging that money to the Town of Newington and that pledge is signed by him, it's signed by the bank official, it's signed by the then Town Manager, and we have a copy of that pledge in our files, the original was presumably was kept by the Bank of America in Bloomfield. I called them the other day, to let them know that the Commission voted to release a certain, whatever amount of it, and they said, oh no, that CD is only in the name of the developer. This so-called pledge apparently got lost, so at any time over the past couple of years that developer could have closed out that CD and we would never have known. So this system of using pledges I think is not secure at all, and now I have a new project, to go through the file of all of these so called pledges to make sure that those CD's sitting in the bank are in fact in our name and not the name of the developer who actually posted it, and if I find that there are a lot more banks that don't have record of the money being pledged to us, I'm going to talk about, we're going to talk about possibly cashing them and putting them into the bank's checking account because the bank, I mean the town's checking account, because we do hold cash for some developers. I'm not sure if it's interest bearing, I'd have to, it is if it's over a certain amount I think, but we should put all, I'm probably going to come back to you and recommend that we cash all those CD's and put them into the bank in our name and the interest that accrues would still belong to the developer, but at least then we control that money and it's not in Bloomfield Bank of America where who knows where it actually is.

Commissioner Anest: Do you ever run into problems where the money has been sitting there with no activity, is eventually going to the State of Connecticut?

Craig Minor: I know what you are talking about, I don't know if that is going to be a problem.

Commissioner Anest: I mean, all of these that have a pass book, have they all be confirmed, have they all been confirmed that the money is still sitting there?

Craig Minor: I have no idea, that's my project.

Commissioner Aieta: Can I ask a question? It says road maintenance bond released by the Town Manager. The only one that can release a bond is this Commission. Are these getting released without our review, or is that, or he's just releasing it after he got a report that we reviewed it.

Craig Minor: There are two major types of bonds in your world. There is the performance bond to make sure that the developer builds the road for a new shopping center or whatever....

Commissioner Aieta: Is that the one that we are.....

Craig Minor: That's what I call a performance bone, your regulations kind of go back and forth, but I call it a performance bond. But then there is a different kind of bond called the road maintenance bond, that's a bond that a developer posts after the road is done, this is all in your subdivision regs, that's a bond posted with the town once the road has been accepted by the town council, that bond stays there for one year, and if the road is fine after one year, the bond gets released. Under the subdivision regs, the Town Manager releases the maintenance bond.

Commissioner Aieta: Okay.

Craig Minor: And in many cases the bond had been released, but for some reason it still shows up in the town treasurer's records.

Commissioner Anest: One side not talking to the other side.

Craig Minor: Or memo's getting displaced. So this will be updated, do you want to see this monthly, or I mean, every meeting, or just once a month.

Chairman Pruet: I'd say until it gets clarified, then we can have it once a quarter, or something like that.

Commissioner Aieta: So if we go to the active TPZ development bonds, we go, the first one on the list is from 2001.

Craig Minor: Right, yes.

Commissioner Aieta: Twelve years ago.

Craig Minor: It may not be there, I mean, that may have been released a long time ago. This list, when I started working on this list a couple of weeks ago, this list was twice as long as it is now. I've found that many that were on Ed's list had in fact, been released. He just hadn't deleted them from the list.

Commissioner Aieta: Do you want more time to go through this list and see if you can, see if these are real or not?

Craig Minor: Oh yes, well, this is a work in progress.

Commissioner Aieta: Do you want to go to the next meeting, and we will discuss, and you, or the following two meetings, or whatever you need for time, and get it down to a list that is real. I don't want to talk about, say this one, it has to be, it can't been there anymore from '71 or 2001, or could it?

Craig Minor: Well, the ForePlay Bar on 508 Cedar Street, which is cash, that might very well, from 1995, that may very well still be sitting in the bank.

Commissioner Hall: It better be.

Craig Minor: There were issues with the owner of the property, something about dirt was eroding onto his neighbor's property behind him, this was, this went through your minutes several months in a row, long standing issue and the Commission voted not to release the bond, but apparently it never came up again.

Commissioner Aieta: We should make a determination what we should do. Maybe the town should just take the \$2500.00 and close the case out if that is all the leverage we have. I mean, and go through the rest of these and do the same thing. If we've got cash bonds, and a good one that Stanley and I talk about is the Occhialini thing where the road is, we can't do anything, and there is money, let's take the money. I mean, if it's never going to get resolved, we just can't let it sit here on the list and it goes for years and years and years. We've got to make a determination and close some of these out.

Craig Minor: Right. The Global Granite one, \$37,000, that's gone.

Commissioner Aieta: Yeah, take some more time and go through them, and then.....

Chairman Pruet: At least we're getting them identified, it's a start.

Commissioner Aieta: So we can talk about it after you review it a little more.

Craig Minor: Yes.

Commissioner Aieta: Okay good. Do you want to put that as an agenda item on the agenda, or do you just want to take it under your comments?

Craig Minor: It will be a standing item in my reports.

Commissioner Aieta: Okay.

Craig Minor: Until we get it under control and then it will be quarterly or monthly. Going back to my report, the status of Modern Tire, we talked about that, status of Newington Walk, I did get a revised set of plans, well, they were dated September 13th, I have them, I haven't really started looking at them yet. Frankly, I'm not sure if it is a good use of my time to go through it now when we don't know, and if I was a betting man I wouldn't want to bet on whether they are going to get approval from the Conservation Commission, so if you don't mind, I'd like to wait for them, to see whether the light is at the end of the tunnel before I spend a lot of time with my magnifying glass on the plans. Then I will hold off on those. Newington Junction planning study, we still haven't heard from the consultant who is going to be helping us with that. I think it may be because the staff person left CRCOG a while ago and maybe she hasn't been replaced yet, so nothing new to report on that. The Low Impact Development project, I was told that the council did not act on that last night. We need to spend that money by December of 2013 or it goes back to the state.

Commissioner Sobieski: On that money you have to spend, does that mean the entire project has to be finished, you can't be half way, say if you started in September, and it wouldn't be finished until February of 2014.....

Craig Minor: Well, it's actually a two part project. One part is to hire a consultant to help us revise the regs, the other part is to have an actual bricks and mortar project. If we have hired a consultant and he is three quarters of the way through helping us revise our regs and we've paid that firm that money, the state is not going to make us give it back, just because we haven't finished. It's just whatever money hasn't actually been spent, not encumbered,

checks actually written, the state is going to sweep, so we need to spend that money before December.

Commissioner Anest: If they act on this in January, that will give us plenty of time to.....

Craig Minor: That's what I thought, but the person at DEEP who is overseeing this, who has, we are the last town of five or six who have done this, and she said in all cases, it took the town longer than the town thought to do it, partly because writing new regulations that are going to be more environmentally friendly, well the flip side of that is they are less business friendly and so the town wants to be cautious before adopting more onerous land use regulations. The town wants to make sure that we reach out to the community and do this slowly and with input from the business community. That's why I strongly recommend that we have someone from the business community on the committee to keep it reality based, and do it like I said, slowly so as not to scare people and that's why really a year is not that long of time. I mean, how long did it if you think about it, to revise your auto use regulations? If you think about it, you started over a year ago.

Commissioner Hall: Our conservation plan, that took a while too.

Chairman Pruet: We took our time. Any information on grant progress?

Craig Minor: Yes. I just am putting the final touches on the grant that the town is going to be submitting to DEEP to clean up National Welding site. It's a, the total project cost, if you include how much the potential developer who hopefully the town will sell the property to, we're looking at a 60 million dollar project, and all we're asking the state for is two million dollars to help clean up the site to make that 60 million dollar project a reality. Hopefully they will approve it.

Chairman Pruet: What will be the turn around time for a response do you think?

Craig Minor: They say they usually let people know in April.

Chairman Pruet: Any questions for Mr. Minor from anybody?

XI. COMMUNICATIONS

Commissioner Aieta: Mr. Chairman, if I might, I have an article that I would like to Commission to look at just for some backup information, and maybe I can do it under this. It will just take a minute. If you could just read, without reading the whole thing, you can just glance over the high-lighted parts. I don't know if any of you read it, it's about the Malloy roads need attention, and it goes into a blurb about the roads, but it also talks about development around the busway and transit oriented development and talks about affordable housing advocates.

Commissioner Anest: I want to say that today, Craig, myself, Mike, Dave, the Mayor, a couple of councilors are at a forum today and tomorrow about this, so when it is all done, I'm sure Craig will have a report back.

Commissioner Aieta: Okay. I just saw it in the paper, and it just struck me as, it's stuff that we have talked about and what we talked about in the Plan of Development about high density housing and then you read an article about roads and transit orientated stuff, and it's stuff that we really don't want in the Town of Newington. I saw it, and I wanted to share this with the Commission. I didn't know if you read it or not. This was in the paper like yesterday.

Commissioner Hall: Or today. I think it was either yesterday or today.

Commissioner Anest: We have also requested to bring people in to talk about this, and have a town meeting.

Commissioner Aieta: Okay, good. I'm glad someone is on top of it, and you are aware of this. It's just, you read an article in the paper and you say, gee, that's stuff in my town, that's stuff that we talked about, that's stuff that we don't want, and I hope it doesn't get shoved down our throat through the state and we don't have any say as a zoning commission or as a town or a town council or whatever. I hope that home rule still exists, that we have some say over what happens in our town.

Chairman Pruet: Were there any communications at all?

Craig Minor: No.

Chairman Pruet: Like Carol said, we're at a seminar the next couple of days and we'll hear some findings.

XII. PUBLIC PARTICIPATION

Rose Lyons, 46 Elton Drive: Commissioner Aieta, thank you very much for this article. I didn't see that but there has been a lot of talk and as I said, the Economic Development Commission meeting, the other night, they had the DOT there and they had their PR people there and there was more than from the public, and I think that Commissioner Anest and myself made it clear and a few other people, that they needed to have more open communications with the residents, not with the members of the town council or the TPZ. Not that you shouldn't be there, you're the ones that make the decisions for the town, but I think it should be open to the public and I'm glad to hear that something is being done. I don't know if anyone can answer this question or not, but at the meeting the other night they mentioned I believe, and correct me if I'm wrong, once the road is completed into National Welding, that the state is going to deed the road back to the town to maintain?

Craig Minor: Well, it will be a town road. Who is going to have to plow it is being I think negotiated. But it will definitely be a town road with access to property, frontage.

Rose Lyons: So I guess my question is, when the state deeds over property to the town, who has to approve that? Does the TPZ approve that, the council approve that?

Craig Minor: Well, both. Anytime the town acquires or sells land it has to go through a 8-24 process and then the town can vote to accept it.

Rose Lyons: Not sell it, just hand it over.

Craig Minor: However, however it happens.

Rose Lyons: Because I've had questions for ten years about some property behind my house and I keep getting the run around. Is there a list somewhere of state property that has been deeded over to the town?

Craig Minor: I don't know if anybody, well, I'm sure the Tax Assessor could probably tell you the history of land that the town owns, whether they have an actual list of land that we got

from the state, I don't....I doubt very much there is a list of land that was given to us by the state.

Rose Lyons: And the question of eminent domain came up at that meeting, they mentioned the eminent domain and they said they had no intention of taking any property by eminent domain, and I was I know we've talked about, you've talked about it and whatever meeting I have been at, they have talked about whether or not you have the final say as to any zoning changes along that busway. Has anybody gotten a definite answer?

Craig Minor: Well, it's a definite yes or no. Nobody can make Newington change it's zoning regulations but that's not to say that the State or Federal Government isn't exempt from provisions of our zoning regulations.

Rose Lyons: Okay.

Commissioner Aieta: What he is saying Rose, is that if they, if the state wanted to come in and take a parcel of land and say that we're going to open it up for affordable housing or high density housing, we'd be hard pressed to stop the state because they're exempt, just like the town, from the zoning regulations.

Rose Lyons: So everybody beware, keep your eyes open and your ears open, and watch out for what comes. I know we have to live with it, but we don't have to be rolled over with it. Thank you.

Chairman Pruet: Thank you. Anybody else?

XIII. REMARKS BY COMMISSIONERS

None.

XIV. CLOSING REMARKS BY THE CHAIRMAN

Chairman Pruet: I just want to wish everybody, my fellow colleagues and the public a Merry Christmas, Happy Hanukah, Happy Holidays and we'll see you January 9th. Thank you very much.

XV. ADJOURNMENT

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Camerota. The meeting was adjourned at 8:42 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary

